

P. O. Box 272400
Fort Collins, Colorado 80527-2400

ATTORNEY DOCKET NO. 10004958-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Richard L. Gardner et al.

Confirmation No.: 5764

Application No.: 09/886,444

Examiner: K. Brown

Filing Date: June 21, 2001

Group Art Unit: 2877

Title: AUTOMATED IMAGING WITH PHOSPHORESCENT IMAGING TARGETS

RECEIVED
CENTRAL FAX CENTER

Mail Stop Petition
Commissioner For Patents
PO Box 1480
Alexandria, VA 22313-1480

SEP 06 2005

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Sir:

- Applicant petitions for the revival of the above-identified application.
- Nature of Abandonment:
 - (X) In an office communication from the PTO dated 08-30-2004, the undersigned has noted that the above-identified application is being forwarded to the Abandoned Files because applicant's response to the Official Action mailed 11-24-2003 has not been received within the statutory period or any extension requested therefor.
 - () The undersigned has reviewed his records and noted that the response to the Official Action mailed _____ was not timely filed within the statutory period or any extension requested therefor.
- Response filed:
 - The proposed response to the Official Action dated 08-30-2004
 - () has been filed on _____.
 - () is enclosed herewith.
- (X) Enclosed herewith is an adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137 (a) was unavoidable.
- Terminal disclaimer 37 CFR 1.137 (c):
 - (X) Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
 - () A terminal disclaimer and disclaimer fee of \$110.00 disclaiming a period of equivalent to the period for abandonment is enclosed herewith.

Charge \$ 110.00 to Deposit Account 08-2026. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2026 pursuant to 37 CFR 1.26. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.18 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

- () I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1480. Date of Deposit: _____

- () I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number _____ on _____

Number of pages: _____
Typed Name: Phyllis Ewing

Respectfully submitted,
Richard L. Gardner et al.

By Michael J. Fogarty
Michael J. Fogarty, III
Attorney/Agent for Applicant(s)
Reg. No.: 42,541

Date: 08-10-2004

PAGE 3/9 * RCVD AT 9/6/2005 2:30:19 PM [Eastern Daylight Time] * SVR:USPTO-EFXXF-6/24 * DNIS:2738300 * CSID:281 514 8332 * DURATION (mm-ss):02-34

Adjustment date: 09/08/2006 CKHLOK
07/07/2006 DALLEN 00000008 082025 09886444
01 FC:1452 500.00 CR

09/06/2005 CCHRU1 00000096 082025 09886444

01 FC:1452 500.00 DA

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400



PATENT MAINTENANCE
DIVISION

PATENT APPLICATION

ATTORNEY DOCKET NO. 10004958-1

IN THE 2006 JUL -3 11 2:29
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Richard L. Gardner et al.

Application No.: 09/886,444

Filing Date: June 21, 2001

US PATENT & TRADEMARK OFFICE
Confirmation No.: 5764
Examiner: K. Brown

Group Art Unit: 2877

RECEIVED

Title: AUTOMATED IMAGING WITH PHOSPHORESCENT IMAGING TARGETS

JUL 1 1 2006

Mail Stop Petition
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

OFFICE OF PETITIONS

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137 (a)**

1. Applicant petitions for the revival of the above-identified application.

2. Nature of Abandonment:

☒ In an office communication from the PTO dated 06-30-2004, the undersigned has noted that the above-identified application is being forwarded to the Abandoned Files because applicant's response to the Official Action mailed 11-24-2003 has not been received within the statutory period or any extension requested therefor.

☐ The undersigned has reviewed his records and noted that the response to the Official Action mailed _____ was not timely filed within the statutory period or any extension requested therefor.

3. Response filed:

The proposed response to the Official Action dated 06-30-2004

☒ has been filed on 08-10-2004
☐ is enclosed herewith.

4. ☒ Enclosed herewith is an adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137 (a) was unavoidable.

5. Terminal disclaimer 37 CFR 1.137 (c):

☒ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer and disclaimer fee of \$130.00 disclaiming a period of equivalent to the period for abandonment is enclosed herewith.

Charge \$ 500.00 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV568253845US, in an envelope addressed to: MS Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: June 27, 2006

Typed Name: Donna Forbit

Signature: Donna Forbit

Respectfully submitted,

Richard L. Gardner et al.

By Michael J. Fogarty

Michael J. Fogarty, II

Attorney/Agent for Applicant(s)

Reg No. : 42,541

Date : June 27, 2006

Telephone : 214-855-8172

07/07/2006 DALLEN 00000008 082025 09886444

01 FC:1452 500.00 DA

Adjustment date: 09/08/2006 CKHLOK
09/08/2005 CCHAUI 00000096 082025 09886444
01 FC:1452 500.00 CR

08-11-04

DAC.
ITW

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400



Docket No.: 10004958-1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Richard L. Gardner et al.

Application No.: 09/886,444

Confirmation No.: 5764

Filed: June 21, 2001

Art Unit: 2877

For: AUTOMATED IMAGING WITH
PHOSPHORESCENT IMAGING TARGETS

Examiner: K. Brown

Adjustment date: 09/08/2006 CKHLOK
08/15/2006 EFLORES 00000097 082025 09886444
01 FC:2453 750.00 CR

**PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR § 1.137(A)**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained. Applicants hereby petition the Commissioner for revival of the above-identified application for patent.

The last communication received from the U.S. Patent and Trademark Office in this application was an Office Action mailed on May 9, 2003. A response to that Office Action was mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 11, 2003. The August 11, 2003 response was accompanied by a proper certificate of mailing.

The Declaration of Catherine E. Grow, the Legal Administrator in charge of maintaining the corporate mail log for formal papers received by Hewlett-Packard, the

25434961.1

08/12/2004 HRL111 00000005 082025 09886444
01 FC:1452 110.00 DA

Adjustment date: 09/08/2006 CKHLOK
08/12/2004 HRL111 00000005 082025 09886444
01 FC:1452 110.00 CR

Assignee, from the Patent and Trademark Office (PTO), is being filed concurrently herewith in support of Applicants' Petition. Along with the declaration is a copy of the mail log reflecting documents received from the PTO in the Mailed Date period between November 17, 2003, and December 17, 2003, attached hereto on a CD-ROM labeled Appendix A. Appendix A shows that no papers were received by Applicants related to the present application during the month period around when the PTO alleges the Final Office Action was mailed.

As evidenced by the declaration and copies of the assignee's applicable docketing records, attached hereto as Appendix A, Applicants did not receive the Final Office Action that the PTO notes was mailed on November 24, 2003. Therefore, Applicants' failure to timely respond to said Final Office Action was unavoidable. The attached declaration supports that procedures were in place for docketing each paper received from the PTO and that Ms. Grow received adequate training and, indeed, had adequate experience to maintain such docketing system. However, despite the procedures for maintaining the docketing system, the Final Office Action was never received by Applicants or the Assignee.

The first communication received from the PTO after the Office Action mailed on May 9, 2003 was the Notice of Abandonment, received on July 6, 2004. After docketing this paper, the Notice of Abandonment was sent to the undersigned counsel for preparation of this Petition. Without delay, a search of the docketing records was performed to determine whether or not the assignee received the November 17, 2003, Final Office Action. When it was determined that no such Final Office Action was received, the undersigned representative directed the preparation of the attached Declaration and Appendix A. This Petition is, thereafter, filed within a month from receiving the Notice of Abandonment and without undue delay.

On or about July 10, 2004, Applicants contacted the Examiner, Khaled Brown, attempting to obtain a copy of the Final Office Action mailed on November 17, 2003. However, after discussing Applicants' request with Clayton LaBalle, Examiner Brown did not send a copy of the Final Office Action. Therefore, Applicants have made a good faith attempt to make a response to the outstanding office action, but has been unable to respond based on the Examiner's decision not to send a copy of the Final Office Action.

Applicants, therefore, asserts that each requirement of 37 C.F.R. § 1.37(a) has been met. The reasons for the unavoidable delay, as fully set forth in the declaration, supported by Appendix A, and in this Petition, provide adequate basis for the revival of the present application pursuant to 37 C.F.R. § 1.37(a). Applicants, therefore, request that the present application be revived.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-2025, under Order No. 10004958-1.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482737688US, in an envelope addressed to: MS Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: August 10, 2004

Typed Name: Phyllis Ewing

Signature: 

Respectfully submitted,

By 

Michael J. Fogarty, III
Attorney/Agent for Applicants
Reg. No.: 42,541

Date: August 10, 2004

Telephone No. (214) 855-8172

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND												
1 Date of Request: 09/07/06		2 Serial/Patent # 09/886,444										
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT								
	Filing			\$								
	Amendment			\$								
	Extension of Time			\$								
	Notice of Appeal/Appeal			\$								
X	Petition (1452) & 2453		08/10/04	\$ 110.00								
	Issue		09/06/05	\$ 500.00								
	Cert of Correction/Terminal Disc.		06/27/06	\$ 500.00								
	Maintenance		06/27/06	\$ 750.00								
	Assignment			\$								
	Other			\$								
			7 TOTAL AMOUNT OF REFUND		\$ 1,860.00							
			8 TO BE REFUNDED BY:									
10 REASON:			Treasury Check									
X	Overpayment	X	Credit Deposit A/C #:									
	Duplicate Payment		9 <table border="1" style="display: inline-table; text-align: center; width: 150px;"><tr><td>0</td><td>8</td><td>--</td><td>2</td><td>0</td><td>2</td><td>5</td></tr></table>			0	8	--	2	0	2	5
0	8	--	2	0	2	5						
X	No Fee Due (Explanation):											
Pet. Granted and Duplicate												
11 REFUND REQUESTED BY:												
TYPED/PRINTED NAME: Charlema Grant			TITLE: Atty									
SIGNATURE: /Charlema Grant/			PHONE: X-3205									
OFFICE: OP												
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****												
APPROVED:			DATE: 9/18/06									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: